

EXHIBIT V

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

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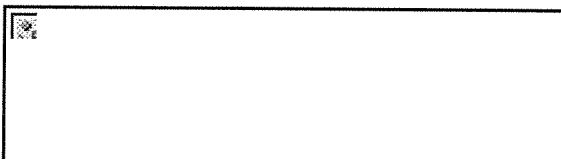
HoustonFreecycle · Houston FreeCycle

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Description

Category: [Recycling](#)

Welcome to the Houston Freecycle Network, where one person's trash is another's treasure!

Freecycle is a grassroots environmental movement whose goal is to recycle and reduce waste

and landfill space by connecting people who are throwing away unwanted items with others who are seeking the same items (and have a little fun in the process). No item is too big or too small; *but since this is a FREEcycle list and we emphasize gifting, ALL items must be 100% (that's right, you got it) free. No bartering, trading, buying or selling is allowed.*

Please note: Live animals, weapons, offers/requests for money in any form, items available only to those over 18 or 21, personal ads and any form of spam or advertising are strictly prohibited on HoustonFreecycle.

The Houston Freecycle Network serves the greater Houston, Texas area; people living in neighboring towns are also welcome.

The Houston Freecycle Network is modeled after the Tucson Freecycle Network, the original freecyclers. Find out more about the VERY fast-growing international freecycle movement at www.freecycle.org.

The Houston Freecycle Network is on a restricted membership and **generates up to 100+ posts a day**. When you sign up, a short application will be sent to you via email. This is done to keep membership local, spammers out, and to verify new members understand what Freecycle is about. Please fill it out and return per instructions.

Be sure to visit our [discussion forums](#)

Freecycling...one simple, brilliant idea that's changing the world one gift at a time.

What's New

New within the last seven days:

Messages: **297**Photos: **4**

Message History

Search Archive

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2005	1630	528										
2004	67	91	312	502	1007	1022	1342	2205	1329	2068	1749	1487
2003												19

Group Email Addresses

Yahoo! Groups : HoustonFreecycle

<http://web.archive.org/web/20050213090407/http://groups.yahoo.c...>

For more information: <http://www.freecycle.org/>

Post message: HoustonFreecycle@yahoogroups.com

Subscribe: HoustonFreecycle-subscribe@yahoogroups.com

Unsubscribe: HoustonFreecycle-unsubscribe@yahoogroups.com

List owner: HoustonFreecycle-owner@yahoogroups.com

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Description



Category: Recycling

Welcome to the Austin Freecycle Network, where one person's

trash is another's treasure. Our goal is to reduce waste by connecting people who are throwing away unwanted items with others who are seeking the same items (and have a little fun in the process). No item is too big or too small; but since this is a FREEcycle list, ALL items must be 100% (that's right, you got it) free.

The Austin Freecycle Network serves the greater Austin, Texas area; people living in neighboring towns are also welcome.

The Austin Freecycle Network is modeled after the Tucson Freecycle Network, the original freecyclers. Find out more about the VERY fast-growing international freecycle movement at www.freecycle.org.

[Austin, Texas, giveaways, secondhand, used, thrift, recycle, recycling, reduce, reuse, environment, ecosystem, freecycle, landfill, nature, earth, conservation, green, voluntary simplicity, free, freebie, swap, dumpster, trash, junk, unwanted, wanted, scavenger, salvage, share]

Freecycling...one simple, brilliant idea that's changing the world.

Group Info

Members: **326**
 Founded: **Oct 8, 2003**
 Language: **English**

Group Settings

- Listed in directory
- Open membership
- Unmoderated
- All members may post
- Archives for members only
- Email attachments are permitted

Most Recent Messages

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2003										36	134	

Group Email Addresses

For more information: <http://www.freecycle.org>

Post message: austinfreecycle@yahoogroups.com

Subscribe: austinfreecycle-subscribe@yahoogroups.com

Unsubscribe: austinfreecycle-unsubscribe@yahoogroups.com

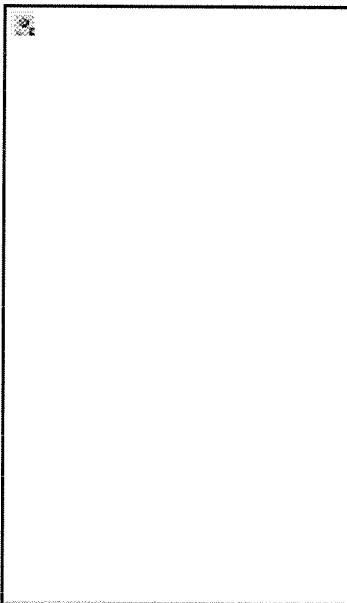
List owner: austinfreecycle-owner@yahoogroups.com

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[Groups Home](#) - [Help](#)**RedStickFreecycle · Red Stick Freecycle Network--Baton Rouge**[\[Join This Group! \]](#)[Home](#)**Members Only**[Messages](#)[Links](#)[Polls](#)[Promote](#)[Join This Group!](#)(Already a member? [Sign in to Yahoo!](#))**Description**Category: [Recycling](#)

Welcome to the Red Stick Freecycle Network (RSFN) of Greater Baton Rouge and surrounding parishes. (More info: [RedStickFree.org](#))

Whether you're looking to OFFER or SEEK an item, the non-profit, always FREE RSFN is the place to do it--furniture, clothes, appliances, plants, books, a dirt pile, moving boxes, all things in between. *Our goal is to reduce waste by connecting people who would otherwise throw away unwanted items with others seeking those same items.*

No item is too big or too small; but since this is a FREEcycle list, **ALL items must be 100% free.**

TO START:

- (1) Join the RSFN group (Get a yahoo ID if you need one--it's free, too!);
- (2) Simply check your email or see the Messages here via the Main Page at [RedStickFree.org](#) to see what fellow members want to give away or seek; AND

(3) Click on "Post" to OFFER an item or request something you seek.

PLEASE make every effort to make your first post an "OFFER".

When you join, a Welcome email containing etiquette, guidelines and suggestions will be sent to you...these are very important. Read through this information prior to participating.

CONTACT the volunteer moderator at scott@redstickfree.org with QUESTIONS.

SUGGESTION TO HELP US GROW: "Network"--Tell your family, co-workers, classmates; Announce it at your meetings; Inform your church members; KNOW TEACHERS THAT NEED CLASS SUPPLIES?...brainstorm and help this movement grow! We can supply flyers. GOAL: 10,000 members by 12-31-05.

The RSFN is modeled after the Tucson Freecycle Network ([freecycle.org](#)).

What's New

New within the last seven days:

Messages: **353**

Message History**Group Info**

Members: **2529**

Created: **May 13, 2004**

Language: **English**

Group Settings

- Listed in directory
- Open membership
- Messages from new members require approval
- All members may post messages
- Message archive viewable by members only
- Email attachments are not permitted

Yahoo! Groups : RedStickFreecycle

<http://web.archive.org/web/20050310151154/http://groups.yahoo.c...>**Search Archive**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2005	1547	1071	485									
2004					12	78	1224	1246	915	729	644	949

Group Email AddressesFor more information: <http://www.redstickfree.org>Post message: RedStickFreecycle@yahoogroups.comSubscribe: RedStickFreecycle-subscribe@yahoogroups.comUnsubscribe: RedStickFreecycle-unsubscribe@yahoogroups.comList owner: RedStickFreecycle-owner@yahoogroups.com

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EXHIBIT W

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

Tim Oey, 9/16/04 9:55 PM -0700, [freecyclemodsquad] Freecycle -- intellectual property

1

To: freecyclemodsquad@yahoogroups.com
 From: Tim Oey <timoe@yaho.com>
 Date: Thu, 16 Sep 2004 21:55:52 -0700
 Subject: [freecyclemodsquad] Freecycle -- intellectual property protection is important...

Since the Freecycle network is growing up, here are some recommendations for discussion and hopefully adoption (and general education).

Please note that I'm not a lawyer but I've been involved with intellectual property issues for about 20 years (copyrights, trademarks, patents, etc). For "official" advice, please consult the appropriate type of attorney.

1) Everyone in the Freecycle network needs to protect the "Freecycle" trademark. Not only must trademarks be actively defended (as Deron is doing), they must also be used properly. Trademarks are adjectives, and must only be used as such (i.e., Freecycle moderators, Freecycle network, etc). Marks should never be used as nouns or verbs, nor should marks be pluralized or used in the possessive form. This is especially important in official Freecycle communications -- web sites, autosent emails, etc. Unfortunately this does crimp the use of "Keep on Freecyclin'" -- catchy, but risky.

2) What is the official full name of the Freecycle non-profit? Is it "The Freecycle Network"? or "Freecycle, Inc." or what?

3) As people create material for Freecycle, it would be useful to come up with some sort of concise copyright policy for everyone to use that references the official full Freecycle name. For material of significant length, here is what I recommend:

a) Either the standard:
 Copyright <year> The Freecycle Network, All Rights Reserved

or

b)
 Copyright <year> The Freecycle Network, All Rights Reserved

Official Freecycle sites may re-use, edit, extract, redistribute, and update this article as long as this copyright statement is retained.

If you redistribute, you may optionally give credit to whoever has contributed to it thus far.
 Credits: <names of contributors>

The nice thing about (b) is that it is pretty clear that stuff can be updated by others in the Freecycle network -- this constitutes a simple mini-license that sticks to Freecycle copyrighted material and also gives contributors a way to be recognized.

Cheers,
 Tim

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Yahoo! Groups Links

EXHIBIT X

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FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

Deron Beal, 9/21/04 7:55 PM -0700, Mgt. team or leadership crew?

1

From: "Deron Beal" <deron@freecycle.org>
 To: "Ken Hedden (Schroon Lake NY)" <WAYFARERMOTEL@aol.com>,
 "Judy Ruzich (Lafayette IN)" <ruzich@iquest.net>,
 "Amanda Rose (Genesee Cnty MI)" <Dustydeviate1@aol.com>,
 "Nancy Castleman & Marc Eisenson (Hudson Valley)"
 <MarcEisenson&NancyCastleman@GoodAdvicePress.com>,
 "Tim Oey (Sunnyvale CA)" <timcafc@oeyweb.com>,
 "David Neeley" <dbneeley@gmail.com>,
 "Aaron Liepman [Mid-Michigan]" <recyclemi@yahoo.com>,
 "Jeff Davis" <jeff@greenbicycle.net>,
 "irene johnson (Santa Clara CA)" <johnsonimj@hotmail.com>
 Subject: Mgt. team or leadership crew?
 Date: Tue, 21 Sep 2004 19:55:41 -0700

Ok guys,

Now that I've suckered you all in to putting your name at the top of a column, which means you are leading the freecycle movement, and none of you has gone running screaming from your computer, at least that I saw, I'd like to recognize what you are doing by..... ..drum roll please.

Having a virtual potluck. Ok, i'm kidding, i'm kidding.

By.... drum roll again please....

Officially calling into existence a management/leadership team/crew/council. While none of you are actually getting paid, you are in reality the "management" of the freecycle network (you too Jeff!). And, I'd like to acknowledge your efforts officially in a separate "About us" area on the webpage and give you each a nifty joe@freecycle.org address which may forward to your regular address (cheaper) or which we might be able to make separate mailboxes for a couple of you if we need to, or as we get more cash from our first sponsor. At a later date when stuff calms down we can also confer on stuff as a group occasionally, go figure.

Let me know if you can think of a funner or better name for the mgt team by the by. "Leading freecyle free spirits"? Kinda hoakey. Or how about "The Pelleton"? (a freecycle, ahh, i mean, bicycle pack that holds together in a race to keep down the wind resistance) Too foreign? Hmm I kinda like it. Any other names out there? This is our group and we can call it any darned thing we please!

The "about us" would include a short couple of sentences from and about each of you, maybe a picture, but don't everyone pick Marilyn Monroe or John Wayne as your picture ok? and what you do for freecycle.

Hello, hello? Is anyone still there? I'll give Jeff a heads up that we are doing this and in the meantime, think up your nice text and picture.... I can't thank you all enuf for all you are doing. I'm letting go as much as possible to let you all provide the dynamic and good energy, but you ain't rid of me yet.

Check out this link for ideas:
<http://www.craigslis.org/about/teambios.html>

And hang in there. This time of transtion is sure to be a little rocky. And be patient with me, I'm ready to help, just let me know how I can. (just don't let me know in an e-mail because I won't be reading it for about two more weeks with my somewhat overloaded in=box)

Keep on keepin on,
 deron

Printed for Tim Oey <oey@post.harvard.edu>

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FS144306

EXHIBIT Y

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

freecyclederon, 11/15/04 7:15 PM -0700, [NWPT] ADMIN

1

To: NWPT@yahoogroups.com
From: "freecyclederon" <deron@freecycle.org>
Date: Tue, 16 Nov 2004 02:15:39 -0000
Subject: [NWPT] ADMIN
Reply-To: NWPT@yahoogroups.com

Bringing things to a close...

NWPT DEADLINE HAS ARRIVED: 11/15/04 for wish list.

1) THANKS BE UNTO ALL!! I spoke with Tim on Friday who notified me that the group has boldly gone where no man has gone before and has come as far as it can with its mandate to provide a wish list for the new webpage. I am excited and overwhelmed by the depth of thought that you all have put into this group and the compiling of ideas for the new webpage. In fact, to see that Buck is even doing basic coding work already moving the project into the next phase of design based on your collective wishes is the cherry on top. You have exceeded my wildest dreams in this short period of time. I will now begin compiling the data to present to the first hired staff member, a webpage designer / programmer / new webpage project manager when I get some dough in the coming weeks from the first ever sponsor.

Before bringing this to a close, I would like to thank you all for your help here. You are laying the foundation for something pretty darned special.

2) MOVING FORWARD. I would like invite you all to continue in the freecyclenext yahoo group as an informal gathering spot for mods to keep the dialogue alive and discuss ideas. I think this furthers a positive constructive environment for the future.

3) THIS GROUP. I will keep this group's archives and look forward to seeing what Buck is crafting in order to have a rough blueprint / wish list to hit the ground running with.

3) PLANS. Buck I'll contact you directly to see what you've got going. Your work here clearly goes well beyond a simple "wish list" and three cheers for your hard work. Three cheers for Buck!!

Realize that I don't feel that the type of webpage we are planning can fairly be place as a burden on any one person, let alone on a volunteer (this means you, Buck: don't burn out, please).

I fully intend to raise funds to pay a group of programmers to each do modules of coding for the webpage (let's talk, Buck). It is my intent to take all of your good ideas, stir them up in a pot and boil them down into various potential launch / design phases. This will indeed take a great deal of work.

I will have more time when the first sponsor comes through. At that point, which will be in the coming weeks I hope, I will quit my day job (30 hrs/wk recycling) and work full-time on Freecycle. I anticipate hiring a skilled programmer cum project leader at that time as well. I further anticipate farming out bits and pieces of the design work to various programmers on a team to complete. All larger programming/coding components will be paid for. No one will get rich but larger tasks need to be paid for.

Following three failed attempts by myself with various volunteer

Printed for Tim Oey <oey@post.harvard.edu>

1

freecyclederon, 11/15/04 7:15 PM -0700, [NWPT] ADMIN

2

webdesigners and programmers to begin designing the new freecycle.org webpage, I am happy that we can now get this ball rolling for real very soon. I don't think this will take a couple of years to design (as someone mentioned) if pulled together right and in stages, and with some money. But I'll pay a pro to tell me what he can do soon. We can take what Buck has conceptualized and see how we want to take it live.

And finally a great big honkin thank you to Tim. I hope we can talk you into continuing to moderate the freecyclenext group for a bit?

That should just about do it. Thanks for all.

Gracias,

Deron

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<http://us.click.yahoo.com/L5YrjA/eSIIAA/yQLSAA/rcTolB/TM>
 ----->

Yahoo! Groups Links

<*> To visit your group on the web, go to:
<http://groups.yahoo.com/group/NWPT/>

<*> To unsubscribe from this group, send an email to:
NWPT-unsubscribe@yahoogroups.com

<*> Your use of Yahoo! Groups is subject to:
<http://docs.yahoo.com/info/terms/>

EXHIBIT Z

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

Tim Oey, 10/16/04 1:49 PM -0700, [NWPT] freecycle.org article -- trademark/service mark**1**

To: NWPT@yahoogroups.com
 From: Tim Oey <timfcnext@oeyweb.com>
 Date: Sat, 16 Oct 2004 13:49:40 -0700
 Subject: [NWPT] freecycle.org article -- trademark/service mark danger
 Reply-To: NWPT@yahoogroups.com

Warning Will Robinson!

Freecycle is in grave danger of losing trademark protection for the word "Freecycle". To protect a trademark it must be treated as an adjective or proper name -- not a noun or a verb or a word in common language use. It must be diligently protected to prevent it from becoming a general purpose word. This happened to "asprin" and "bandaid"

The words phrases "freecycling", "freecyclers", "freecycled", "300 people freecycle" will quickly erode use of "Freecycle" by itself as a trademark.

The Freecycle Network can be protected easily, but the word Freecycle is very likely to turn into the common use modern word "freecycle". This is good for promoting the environment, but not good if The Freecycle Network wishes to protect how the word is used.

Cheers,
 Tim

>To: <freecyclemodsquad@yahoogroups.com>
 >From: "Deron Beal" <deron@freecycle.org>
 >Date: Sat, 16 Oct 2004 07:40:15 -0700
 >Subject: [freecyclemodsquad] freecycle.org page
 >
 >
 >Hey all,
 >Near as I can tell (Jeff our computer geek friend extraordinaire is checking
 >it out) the webpage is down because of an AP article which also has just
 >become one of the top "most popular" articles on yahoo.com
 >
 >The webpage should be up again soon. Here's that pesky troublemaker of an
 >article:
 ><http://story.news.yahoo.com/news?tmpl=index2&cid=964>
 >
 >Happy Saturday morning to ya...
 >
 >(I'm gonna go get me some yummy fakin' bakin' -- great stuff, ever try
 >it? --for breakfast and a nice hot cup a joe)
 >
 >Deron

Packrats Recycle Their Clutter Online

Fri Oct 15, 1:21 AM ET

By JEFF DOUGLAS, Associated Press Writer

KANSAS CITY, Mo. - Bill Heeter admits he has a problem. He loves junk.

But the retired businessman is one of a growing number of packrats jumping online to give away their clutter or to take some off others' hoarding hands.

In less than two years, freecycling has caught on worldwide, with about 500,000 givers and takers of everything from couches to cars and pingpong tables to pianos.

A few months ago, Heeter visited www.freecycle.org and joined the online community.

Heeter's biggest problem was books. A thousand or more titles from an Internet textbook selling endeavor piled high in his suburban Kansas City garage.

He offered the books through the freecycling network for anyone to take, and nearly 3,000 freecyclers in and around Kansas City got an e-mail. The same day a woman replied and offered to take all the books to sell at a church garage sale.

"I thought, 'Where has this been?' I've been purging junk for years and never questioned if it'd be useful to someone else," said Heeter, 41. "I can see myself freecycling forever. Our garage will never be like that again."

With his garage cleared, Heeter had space for a lawnmower and a leaf blower. He got those free from fellow freecyclers.

Since discovering the "virtual curb" of sorts, Heeter and his wife have been cleaning out closets and offering more stuff to the free message group hosted by Yahoo. His son gave his unused Pokemon toys to a younger child through freecycling.

Deron Beal started the grass-roots movement in May 2003 in Tucson, Ariz., to slow the growing landfills in his community. The idea has scattered through cyberspace and word of mouth to about 1,500 cities worldwide.

There are freecyclers in Australia and Alaska. Portland, Ore., has the largest freecycling group with about 10,000 members. About 300 people freecycle in Manhattan, Kan., with the same number in Jefferson City, Mo. Every participating city has a local volunteer to manage the group.

Shane Brady and his girlfriend, Kelly Garbato, started the Kansas City freecycling group last September. In one year membership has grown to 3,000 members. About 20 new people sign up each day in Kansas City alone, and the couple volunteers two hours or more moderating daily activity. They also participate. Brady picked up a slightly used poker table soon after he launched www.kcfreecycle.org.

Messages are sent by the thousands each month offering unneeded items or placing wanted ads. But there are a few rules, Brady said. Guns, pets and medication can't be freecycled, for example.

"A lot of the things that are shared would probably end up in a landfill otherwise," Brady said. "Maybe for that reason people enjoy giving more than taking."

But in Jill Duft's experience, people aren't giving away worn-out hand-me-downs.

Her Kansas City home was nearly destroyed by a fire in March. Following the loss, she joined the freecycling message board and was able to refurbish her rebuilt place with a leather recliner, a dining room set and a DVD player. She also replaced her daughter's fire damaged piano for free.

"It's been awesome. I tell so many people about it," Duft said.

She gave away an unused Girl Scout handbook, a working refrigerator and a basketball goal after other freecyclers placed wanted ads.

In an era of Internet scams, widespread computer viruses and illegal music downloads, freecycling is bringing priceless good deeds to the Web by the thousands. The stories freecyclers tell are evidence.

An elementary school librarian received an expensive machine that prints braille text for her school's only blind student. Low-income families find brand-new clothes for their children. Even cars have been freecycled.

"Internet communities like freecycling serve a practical and emotional purpose and the Internet lets us bring these like-minded people together quickly," said Mary Chayko, a sociology professor at the College of Saint Elizabeth in New Jersey, who started researching Internet communities the late 1990s.

Her 2002 book "Connecting: How We Form Social Bonds and Communities in the Internet Age," explored why and how people connect on the Internet.

Tim Oey, 10/16/04 1:49 PM -0700, [NWPT] freecycle.org article -- trademark/service mark

3

"People who form and join online communities do so for very authentic reasons," Chayko said, "and research tells us that these groups are no less genuine than real-life bonds that are made in everyday life."

On The Net:

<http://www.freecycle.org>

----- Yahoo! Groups Sponsor ----->
\$9.95 domain names from Yahoo!. Register anything.
<http://us.click.yahoo.com/J8kdrA/y20IAA/yQLSAA/rcTolB/TM>
----->

Yahoo! Groups Links

<*> To visit your group on the web, go to:
<http://groups.yahoo.com/group/NWPT/>

<*> To unsubscribe from this group, send an email to:
NWPT-unsubscribe@yahoogroups.com

<*> Your use of Yahoo! Groups is subject to:
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EXHIBIT AA

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Tim Oey, 11/10/04 12:13 AM -0700, Re: [NWPT] The Freecycle service mark is in grave da

1

To: NWPT@yahoogroups.com, deron@freecycle.org,
 "Paula Spencer (Milpitas)" <pdspencer@earthlink.com>
 From: Tim Oey <timfcnext@oeyweb.com>
 Date: Tue, 9 Nov 2004 23:13:46 -0800
 Subject: Re: [NWPT] The Freecycle service mark is in grave danger
 Reply-To: NWPT@yahoogroups.com

So, comments anyone?

Should we protect the mark "Freecycle" or let it become a generic term?

If we protect it we can prevent rogue groups from using it and have the term mean a certain level of quality in the service. But this will require a bit of work on everyone's part.

If we let it to become a new generic term, it can go into dictionaries, can be used by everyone, spreads the movement even further, and no one can prevent anyone from being able to use the term. This will require no extra work as we are already on this path.

Which do we want?

Deron has said he wants to protect it but also expressed reluctance at trying to convince moderators to help protect it. I think most moderators will understand but inevitably some will think this is yet another "rule" that is too much work. If we take action now we can probably save the mark, if not it will become generic.

Cheers,
 Tim

At 12:52 AM -0800 11/8/04, Tim Oey wrote:

>Hi all,

>

>Please read carefully and comment on this.

>

>The bad news is that if any bright trademark attorneys really check out the Freecycle service mark, they will quickly see that we are already close to losing the rights to the Freecycle mark -- it is literally being loved to death (overused in improper ways).

>

>The good news is that we have it well within our capacity to protect this mark without spending any money -- just being diligent and asking all moderators to be diligent.

>

>Here is the crux of the problem: The Freecycle Network is not using the Freecycle mark properly in order to protect it. Freecycle could be determined to be in the public domain (having become a generic term like bandaid or aspirin) and not be protectable. The places The Freecycle Network needs to use the mark properly are the Freecycle.org web site, official communications from Freecycle, and all the official Freecycle groups that exist. Plus it should be used properly in articles in newspapers, magazines, and newswires as well (it has been misused in many of these already).

>

>The misuse is that Freecycle is commonly being used as a noun (like "Are you a freecycler?") as well as a verb (like "freecyclin" and "Do you freecycle?").

>

>The name of the trademark game is you either follow the rules to protect the mark, or you lose it.

>

>Here is how The Freecycle Network and all publications should treat the mark "Freecycle". Below is what I propose Deron sends out to all moderators and ask that everyone enforce this as a Freecycle rule. Does everyone on this list agree or does anyone see changes that should be made to this before it is posted? It would be best for Deron to send this to both the SNGA group as well as the modsquad (and relayed to all other modsquads). It should also be made a part of the official set of Freecycle standards (wherever they happen to be posted).

>

>-----

>Subject: Help us protect the Freecycle Service Mark!

Printed for Tim Oey <oey@post.harvard.edu>

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Tim Oey, 11/10/04 12:13 AM -0700, Re: [NWPT] The Freecycle service mark is in grave da

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>
 >The Freecycle service mark is very important to The Freecycle Network. Use of the term "Freecycle" denotes a group that is officially approved by The Freecycle Network and one that the members can expect to adhere to a certain level of quality and security (as described by Freecycle etiquette and Freecycle standards).
 >
 >To properly protect the Freecycle service mark, Freecycle staff, moderators, and publications must do the following.
 >
 >1) The first or most prominent mention of Freecycle in a document (on the Freecycle.org site, in an article, on a Freecycle group home page) should include the (SM) designation, preferably as a superscript. The (SM) superscript is not needed in casual emails but should be used in posted documents and on web sites.
 >
 >For example:
 >- See the current Freecycle logo graphic at <http://Freecycle.org>
 >- See how the words "The Freecycle (SM) Network" appear at:
 ><http://groups.yahoo.com/group/freecyclesunnyvale/>
 >- Here is a sentence example: "This Freecycle (SM) group supports Sunnyvale, California."
 >
 >In HTML, the easiest way to add the SM superscript is to use the following HTML code (remove the periods from this example -- they are included so this code is not interpreted as html in this email):
 ><.sup><.font size="1">SM<./font><./sup>
 >
 >2) Major official Freecycle publications (like the main Freecycle.org site, major official documents, and press releases) should say at the bottom:
 >"Freecycle is a service mark of The Freecycle Network."
 >
 >3) The word "Freecycle" must always be capitalized or otherwise set off from the surrounding text.
 >
 >4) The word "Freecycle" must always be used as an adjective, never as a noun or verb.
 >
 >For example.
 >- Do not say "I'm a freecycler." Do say "I'm a Freecycle member."
 >- Do not use the term "freecyclin", say something else.
 >- Do not say "Please freecycle!", say "Please join a Freecycle group!" or "Please join The Freecycle Network"
 >
 >For further details about trademarks, service marks, and how to use them properly, please see:
 ><http://www.inta.org/info/faqs.html>
 >
 >Thanks!
 >-----
 >
 >Note that when (but not before) Freecycle becomes a registered mark, the circle-R symbol should replace the (SM) characters.
 >
 >Cheers,
 >Tim
 >
 >
 >
 >
 >Yahoo! Groups Links
 >
 >
 >
 >

----- Yahoo! Groups Sponsor ----->

EXHIBIT BB

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

Traci Dale, 11/10/04 5:13 AM -0700, [NWPT] Further thoughts about The Freecycle service

1

To: NWPT@yahoogroups.com
From: Traci Dale <tracidale@yahoo.com>
Date: Wed, 10 Nov 2004 04:13:35 -0800 (PST)
Subject: [NWPT] Further thoughts about The Freecycle service mark
Reply-To: NWPT@yahoogroups.com

--- Tim Oey <timfcnext@oeyweb.com> wrote:

> So, comments anyone?

As I ponder this further, I'm beginning to wonder if we have a chance at winning this. We're talking about *everyone* using the name correctly in order to protect it, right? Not just those who are official members/moderators, but the general public has to understand and use it correctly.

I just honestly don't see that happening. I've seen so many rogue groups and cranky members and moderators who think that this focus of Freecycle should be grassroots rather than an organization... I'm wondering how many would actually jump at the chance to undermine the trademark approval process. (I actually worked in the Trademark office in Crystal City, VA one year in the early '80's).

I'm wondering if it's too late already. Has this been announced on the mod-squad already? (I don't go there often anymore and don't feel like scanning 10,000 archives.)

This is *exactly* what happened to the term kleenex, isn't it? Do you actually think Proctor & Gambol (or whoever the heck invented it) didn't try to keep the trademark? They simply had no control over the general public's use of it.

I hate to be the bearer of bad news this fine autumn morning, but I'm thinking that Deron might need to keep his day job. Sorry, dude, I do love ya and want the best for the Freecycle Network, but I'm also a realist.

Traci-Dale, the now very sad moderator gal in Poquoson, VA

Free advice for today: The next time you have a world changing idea that you don't know will be world changing, have an organized plan on how to implement the infrastructure that you don't know you're going to need once it explodes. (Sorry... lame attempt at humor... I do amuse myself on occasion...just not much today.) <rueful grin followed by a heavy sigh>

=====

"It is more blessed to give than to receive."
www.freecycle.org

Do You Yahoo!?

Printed for Tim Oey <oey@post.harvard.edu>

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EXHIBIT CC

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

freecyclederon, 1/5/05 2:59 PM -0700, [freecyclemodsquad] ADMIN: Freecycle as adj., GO**1**

To: freecyclemodsquad@yahoogroups.com
 From: "freecyclederon" <deron@freecycle.org>
 Date: Wed, 05 Jan 2005 21:59:34 -0000
 Subject: [freecyclemodsquad] ADMIN: Freecycle as adj., GOA contacts, etc.

1) FREECYCLE OFFICIALLY ONLY AS AN ADJECTIVE. I have since met with my lawyer about copyright issues. He says that anything official should never use the word "Freecycle" as anything but an adjective. "Freecycle" Guidelines, The "Freecycle" Network, etc. Using it as a verb risks it becoming generic as a phrase for any company that would like to set up a webpage like ours and charge for it, have pop-up ads, etc. So getting in Webster's is not a good thing if we want to protect the name from monied interests and profit-takers. It also always needs to be capitalized.

So, officially, we will need to start making sure that the webpage, for example, doesn't say something like "Keep on Freecyclin'". This of course really stinks, but is definitely not a little thing. And technically where ever it is used officially it needs to say Freecycle (TM) with the elevated TM after it. Emily our wonderful GOA volunteer for the Northeast region has been doing some of this lately for the site (adding TM's and C's etc.)

Originally I was told it should be an SM for Service Mark but apparently SM is only recognized in the US and TM is good all over, basically. So even though we are getting a Service Mark which will become an "r" when registered (same as with a TM), TM is the better thing to use. This means that I've also asked Thomas Pradel our main German man to change the logo to reflect the TM bit instead of SM. Ei yei yei. This legal stuff is a topsy turny rollercoaster that just makes my stomach turn...

We will most likely have our first court case with a company that is already trying to get a competing trademark for Freecycle. I have a first sponsor lined up and should be able to have enough cash to cover the court case, I hope.

2) THE GOA FOLKS ARE LISTED ON FREECYCLE.org UNDER FAQ TOWARDS THE BOTTOM. The wonderful mega volunteers with the group outreach and assistance (GOA) have agreed to allow their addys to be posted in this somewhat public fashion. Their addresses are clearly marked as ONLY FOR YOU MODS to contact. We'll give this a try and see how it goes. We also clearly note that the info@freecycle.org is the only contact for nonmod members. Three more cheers for the GOA folks who are offering up their hearts in time above and beyond the call of their own groups...

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EXHIBIT DD

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

gowriterotica, 2/7/05 11:13 AM -0700, [PenguinPatrol] ADMIN: Welcome and Thanks!

1

To: PenguinPatrol@yahoogroups.com
From: "gowriterotica" <trademark@freecycle.org>
Date: Mon, 07 Feb 2005 18:13:03 -0000
Subject: [PenguinPatrol] ADMIN: Welcome and Thanks!
Reply-To: PenguinPatrol@yahoogroups.com

Hello, Penguin Patrollers!

Please forgive the length of this note... lots to cover!

First, a note about this group's silly name: some of the work we're doing here is sensitive, and it is our primary concern to protect ourselves and each other. The goofy name of this group is benign, and that's the point.

This group is not listed in the Yahoo Groups directory and membership is moderated. Please don't invite anyone else to it, forward or copy messages from it elsewhere, or discuss this group's business with anyone who isn't a member.

Does that sound Secret Agent enough for you?
Great! Then let's move on...

You are all here because Deron, Nancy, and/or I happen to know that you are intelligent, trustworthy, kind, and for our purposes here, very useful. Thank you for being willing to help. I truly appreciate it.

I have been charged with managing certain aspects of this fab Freecycle world, including the database stuff, copyright/trademark, rogues, safety concerns, and whatever other goodies go with it all.

Specifically, these are some of the roles that we will collectively have to cover:

1. rogue group pursuit, which involves:
 - making sure they're rogue (not pending, not working with GOA/NGA) and have been adequately dealt with by GOA
 - sending them a first cease & desist letter
 - sending them a second cease & desist letter 2 weeks after the first if they haven't responded, or immediately if they respond with anything close to "no way I'll stop using your name, etc."
 - waiting 48 hours, checking to see that they have stopped using our name, etc. and if they haven't, sending them on to me
2. database work, which thankfully, Dean has agreed to take on (thanks, Dean)!
3. Trademark policy & support:
 - help establish our policy on trademark/copyright issues
 - assist in the process of rolling out the TM policy that we'll be asking group owners/mods to adopt
 - support those policies (be the point person(s) for questions about it, advice about how to implement it, how to answer members' questions about it, etc. - you might get your own fancy .org email address!)
4. Safety concerns:
 - Cyn is our fabulous safety coordinator. Cyn- please say hi and let

Printed for Tim Oey <oey@post.harvard.edu>

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gowriterotica, 2/7/05 11:13 AM -0700, [PenguinPatrol] ADMIN: Welcome and Thanks!

2

us know what your job is in that capacity

- help identify concerns or security issues within the Network
- help protect the Network's volunteers from abuse, defamation, and "outing" by some particular baddies

5. General sleuthing:

- track down people based on their IDs or other information (there are a few people we'd like to keep tabs on or at least collect info on, just in case)
- dig a little deeper (long story- I'll go into it with whomever falls into this role)
- compare headers to identify posters of certain messages, etc.

And I'm sure there will be more, but that's what comes to mind at this point. We'll elaborate on the positions as we move forward, but that's the gist.

So, please get back to me (hit reply and it'll go to the group) with a little intro and which bits of that list you'd like to see yourself responsible for. Some roles will require more than one person, I'm sure.

You're all here because you were kind enough to agree to help, and because you're known to be particularly helpful with some of these things, so feel free to volunteer for the stuff that feels like a good fit for you personally and *please* do to turn me down if I ask you to do something you're not comfortable with.

Forgive me for reiterating: anything discussed in this group stays here. Please do not *ever* assume that anything is common knowledge. Nothing about what we're doing here, which people are members of this group, or any other info should be shared with non-members under any circumstances (note though that Nancy and Deron are members and definitely in the loop).

I'll send my own little intro in a separate message.

Thanks again, to all of you. I look forward to working with you and can't tell you how much I appreciate your willingness to help!

~emily

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 ----->

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Yahoo! Groups Links

EXHIBIT EE

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)

southbaypen, 3/19/05 2:03 PM -0700, [freecyclesunnyvale] Re: ADMIN: Freecycle Tradem

1

To: freecyclesunnyvale@yahoogroups.com
 From: "southbaypen" <dss@batnet.com>
 Date: Sat, 19 Mar 2005 21:03:39 -0000
 Subject: [freecyclesunnyvale] Re: ADMIN: Freecycle Trademark heads up

I was freecycling down to the local freecyclers the other day, whistling the Freecycled Blues, toting an old toaster to freecycle, and hoping to freecycle me a bookshelf, when suddenly a very large dude in a suit stopped me short and said:

"Hold on there, buddy. You be violating some serious trademark shit, taking the F-word in vain like that."

I was taken aback. "Are you out of your freecyclin' mind? This is a freecycled country, man! Now get the F-C outta my way!"

He tightened his vise-like grip on my arm. "Now listen up, and listen good. You may think this is a joke, but there's a lot of very influential people watching this Freecycle(tm) thing, and they're not gonna let some ex-hippie programmer dude who never outgrew his Rebellin' Against Authority phase screw it up."

"Influential people? What is this crap?"

"That's right. You got people giving shit away for free, you be stepping on the turf of every honest businessman trying to make a buck selling that same shit. Pretty soon all you got is folks shuffling shit, and the whole country falls to pieces. Now McScram before I scotch tape a xeroxed kotex onto the back of your spandexed ass!"

"Hold on. You're trying to tell me somebody's paying you to watch for trademark infringement because they are afraid that freecyclers are going to ruin the economy? I don't believe a word of it. You're going to have to freecycle a better story than that."

He looked around furtively, then pulled me in close and spoke quickly in a low voice.

"All right. Look, I'll level with you, but this stays between you and me. Don't you go emailing this shit to all your friends."

I solemnly drew an X across my chest, saying, "Freecyclers' honor."

"Ok listen. The Freecycle Network(tm) started with a couple of groups here and there, and it's grown to over a million members in less than two years, with over FIVE million hits on the Freecycle(tm) website. That kind of Internet growth rate makes advertising executives cream their pants. And that's just the tip of the iceberg. Now we've got some very large companies nosing around, trying to figure out how to get a piece of this action. Think about it. Building materials left over from big jobs...Home Depot could be all over that. Books and magazines...you think Borders isn't watching that? Baby clothes and toys...don't even get me started!"

He leaned into my ear and said in a coarse whisper, "At this very moment, Walmart is drawing up plans for a nationwide chain of Freecycle(tm) Centers."

I pulled away in shock. "You've got to be kidding!"

southbaypen, 3/19/05 2:03 PM -0700, [freecyclesunnyvale] Re: ADMIN: Freecycle Tradem

2

"It's true. And you know what that means? Pretty soon every major retailer in the country is going to be trying to jump onto this bandwagon, and we've got to be prepared. That's why we have to protect the trademark. We can't lose control of this now, when it's about to be the biggest thing since the golden arches."

It was all too much for me. Deep down in my gut, I knew that if Corporate America thought that freecycling was a good idea, then there must be something seriously wrong with it, and I wanted no part of it. I jumped back on my freecycle, and peddled like hell.

"Come back!" he yelled after me. "There's some serious money to be made giving away shit for free!"

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 -----~-->

For Freecycle Etiquette and other Freecycle information please see:
<http://groups.yahoo.com/group/freecyclesunnyvale/files/>

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 Yahoo! Groups Links

<*> To visit your group on the web, go to:
<http://groups.yahoo.com/group/freecyclesunnyvale/>

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freecyclesunnyvale-unsubscribe@yahoogroups.com

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